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FACT SHEET

PROPOSED REVISIONS TO REGULATION ALLOWING THE SUBSTITUTION OF STATE AND LOCAL PROGRAM REQUIREMENTS FOR FEDERAL TOXIC AIR POLLUTANT REQUIREMENTS (under Section 112(l) of the Clean Air Act)

TODAY'S ACTION...

- ◆ The Environmental Protection Agency (EPA) is proposing to revise its regulation that allows State, local, and tribal air pollution control agencies to administer and enforce EPA's toxic air pollutant program. This regulation allows these agencies to obtain EPA's approval to replace an EPA air toxics regulation with their own regulation. Toxic air pollutants are those pollutants that are known or suspected to cause cancer or other serious health or environmental effects.
- ◆ Today's proposal would provide State and local air pollution control agencies with more flexibility to implement and enforce sections of their rules and programs in lieu of corresponding federal toxic air pollutant standards and requirements. Specifically, it would allow EPA to approve portions of a pollution control agency's toxic air pollutant program if the program meets certain criteria specified by EPA. Currently, EPA must either approve or disapprove the entire program if it is to substitute for federal requirements.
- ◆ EPA developed today's proposal in close partnership with major stakeholders, including industry representatives and state and local agencies.

WHAT WOULD BE THE BENEFITS OF THE PROPOSED REVISIONS?

- ◆ The proposal would continue to ensure that the toxic air pollutant emission reductions required under the Clean Air Act and EPA's regulations continue to occur. The emission reductions achieved under the authority of the State and local air pollution control agency would have to be equivalent or greater than reductions required under the direct authority of EPA.
- ◆ The proposal would provide State and local air pollution control agencies with greater flexibility to preserve and build upon existing air toxics regulatory programs. This would be accomplished by providing more options to allow pollution control agencies to implement and enforce their toxic air pollutant control programs in place of otherwise applicable federal programs.
- ◆ Industry would be expected to benefit from this proposed revision because the possibility

of being subject to requirements from more than one governing agency would be reduced.

BACKGROUND

- ◆ Under the Clean Air Act Amendments of 1990, EPA is required to regulate emissions of 188 listed toxic air pollutants. (Note that this list originally referenced 189 pollutants, but EPA has subsequently removed the chemical caprolactam from the list.) On July 16, 1992, EPA published a list of source categories that emit one or more of these toxic air pollutants. For listed categories of "major" sources (those that emit 10 tons annually or more of a listed pollutant or 25 tons or more of a combination of pollutants), the Clean Air Act requires EPA to develop standards that will require the industrial sources to achieve an emission reduction equivalent to putting into place what is known as "maximum achievable control technology".
- ◆ The Clean Air Act Amendments provide air pollution control agencies with two options regarding authority to regulate toxic air pollutants. These agencies can either administer and enforce the federal toxic air pollutant program, or they can replace federal requirements with their own requirements that are at least as stringent.
- ◆ In November 1993, EPA issued a rule specifying the criteria under which EPA would approve a state or local agency's program to substitute for a federal air toxics program. After EPA issued its rule, several State and local government officials raised concerns that EPA's criteria needed to be streamlined and made more flexible to reduce the barriers to EPA approval of the State/local program substitution. In developing today's proposal, EPA has worked in close partnership with State and local agencies to address their concerns.

WHO WOULD BE AFFECTED BY THE PROPOSED REVISIONS?

- ◆ State, local or tribal air pollution control agencies that would like to substitute their own air toxics rules for federal air toxics regulations will be affected by the proposal. If these agencies can show their rules are at least equivalent to federal requirements, then they will only be required to implement their own regulations.
- ◆ Facilities subject to toxic air pollutant regulations which are located in those areas choosing to substitute their rules for federal regulations would be affected because these facilities would no longer be subject to more than one set of toxic air pollutant requirements.

HOW DO EPA'S PROPOSED REVISIONS PROVIDE FLEXIBILITY TO AIR POLLUTION CONTROL AGENCIES AND INDUSTRY?

- ◆ The proposal would provide air pollution control agencies with additional flexibility to

preserve and build upon existing air toxics programs. Specifically, the EPA has expanded the potential ways in which an air pollution control agency can demonstrate that their programs are equivalent and has provided more options for that agency to demonstrate adequate compliance and enforcement.

- ◆ Additionally, this action would allow portions of State and local programs to be federally enforceable provided they are at least as stringent as the federal requirements and meet the approval criteria. EPA's 1993 rule had required State and local programs to be approved or rejected in their entirety, only.
- ◆ This proposed regulation would reduce administrative burdens to industry by eliminating certain dual regulations wherever EPA determines air pollution control agencies' programs are at least as stringent as EPA's regulations. This would reduce costs and save time associated with permitting and enforcement for regulatory agencies as well as many industries.

FOR FURTHER INFORMATION...

- ◆ Interested parties can download the proposal from EPA's web site on the Internet under "recent actions" at the following address: <http://www.epa.gov/ttn/oarpg>. For further information about the proposal, contact Tom Driscoll of EPA's Office of Air Quality Planning and Standards at (919) 541-5135.
- ◆ EPA's Office of Air and Radiation's home page on the Internet contains a wide range of information on the air pollution programs including air toxics issues. The Office of Air and Radiation's home page address is: <http://www.epa.gov/oar/>.